

### **REMARKS**

Applicant thanks the Examiner for the very thorough consideration given the present application. Claims 1-4 and 6-34 were pending in the application before this Request for Continued Examination and Amendment. Claims 35-39 have been added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

In addition, applicant also thanks the Examiner for the courtesy extended during the telephonic conferences on September 30, 2003 and October 2, 2003 in which only the Examiner and applicant's newly appointed attorney Anthony G. Fussner participated. After introductions, applicant's attorney advised the Examiner of applicant's intent to file this Request for Continued Examination. The Examiner also advised applicant's attorney that a notice of appeal was filed on August 20, 2003.

### **APPOINTMENT OF NEW COUNSEL**

On September 30, 2003, Applicant filed a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address. With that filing, applicant revoked the authorization of applicant's previous patent agent, and appointed the practitioners at Harness, Dickey & Pierce, P.L.C. as his attorneys to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

### **INFORMATION DISCLOSURE STATEMENT (IDS)**

Applicant also files an IDS simultaneously herewith disclosing the references cited in the application and petition to make special. Although the first office action indicated that these references would be made of record on an Examiner's Notice of References Cited (PTO form 892), applicant nevertheless cites these references for the convenience of the Examiner to remove from the Examiner the burden of preparing the PTO form 892. The references in the IDS are cited in the interest of candor and without any admission that they constitute statutory prior art, contain matter which anticipates the invention, or which would render the same obvious, either singly or in combination, to a person of ordinary skill in the art.

**DRAWINGS**

The attached five (5) replacement sheets include Figures 1 through 7, and replace the original sheets including Figures 1 through 7. Applicant has amended Figure 1 to include reference number 22 and the lead line extending therefrom designating the production line. Support for this amendment to Figure 1 can be found in the application as originally filed (see, for example, the application at page 20; and at pages 26-28). Applicant respectfully requests the Examiner to approve the changes to Figure 1 and enter the five (5) replacement sheets submitted herewith.

**SPECIFICATION**

Minor amendments have been made to the specification to correct certain typographical and clerical errors.

**REJECTION OF CLAIMS 1-4 AND 6-29 UNDER 35 U.S.C. § 103**

Claims 1-4 and 6-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over a publication entitled *Web Ordering May Alter Role of Distributors*, National Home Center News, v. 24, n. 10, p. 23-25, by Carol Tice (hereinafter *Distributor Roles*) in view of an article entitled *Lowe's Launches New Superstores in N.E. Dallas, TX* (hereinafter *Lowe's Superstores*). This rejection is respectfully traversed.

At the outset, applicant notes that the amendment to claim 1 has rendered moot the Section 103 rejection of claim 1. Specifically, applicant has deleted "at least one" which the Office Action noted as being opened-ended language. Applicant further submits that the inventions set forth in the pending claims are patentably distinct over *Distributor Roles* and *Lowe's Superstores* for at least the reasons set forth below.

The present invention relates to systems and methods for the direct supply of liquid coatings in particular custom colors in accordance with a customer's order placed directly with the remote supplier or manufacturer of the liquid coating product. As a result, the novel systems and methods of the present invention enable customers to deal directly with suppliers when selecting, ordering, and obtaining liquid coatings in custom colors without having to visit a local retailer thereby avoiding the travel time to and from the local

retailer and wait time for placing the order and for allowing the retailer to add the colorant and mix the product. The novel systems and methods also enable liquid coatings to be economically provided in various, produced-to-order quantities over a continuous range of volumes unrestricted by the use of standard volume containers.

Additionally, the remote suppliers add the colorants instead of the local retailers which thus eliminates the variables introduced by the local retailers during the colorant addition and mixing process. Thus, customers can obtain liquid coatings directly from the manufacturer having a consistency with regard to color, tone and shade that ensures the same color coating ordered on different occasions will not be appreciably different. Elimination of the local retailer also eliminates the inventory held by the retailers, which alone provides a more economic system than that recognized by the prior art.

To this end, independent claim 1 recites a business method for the direct supply for containerized liquid coating product inclusive of a plurality of particular, custom, colors by a supplier remote from a consumer, said business method comprising the steps of accepting from at least one consumer of a customer order placed directly with a remote supplier specifying customer order information including indication of a liquid coating base, a color, a quantity, delivery address and identification of the customer; entering said customer order information into a customer order subsystem comprised of software maintained on a computer; compiling said customer order information with a computer and processing the results of this compilation with a production subsystem to yield production parameters; operating, in observance of said production parameters yielded by said production subsystem, a containerized liquid coating production line capable of producing a plurality of particular, custom, color containerized liquid coatings with a precision in the addition of colorant to liquid coating base exceeding the precision readily obtainable by a conventional local retailer; assembling containerized liquid coating product resulting from said production line fulfilling at least one individual customer order and packaging the resulting assemblage as required for shipment; causing the transporting of each said assemblage of containerized liquid coating product fulfilling each said customer order to the delivery address specified by the consumer in placing the customer order; whereby each said consumer obtains delivery

of containerized liquid coating product directly to a specified address which may be inclusive of particular, custom, colors.

In contrast, *Distributor Roles* merely discloses electronic business methods in which customers place orders for home improvement products with distributors, not with manufacturers or suppliers. The distributors function as electronic clearinghouses which receive product orders and arrange for delivery of the products. The distributors with whom the customer orders are placed, however, do not manufacture or produce the home improvement products. On the contrary, *Distributor Roles* expressly discloses that the distributors “would still buy home improvement products from manufacturers” (see abstract, line 8) and “would get credit for the sale, even though they had not physically handled the product” (see page 2, paragraph 10). Moreover, *Distributor Roles* states that “manufacturers would rely on their distributor networks to avoid having to deal with millions of tiny orders themselves” (see page 2, paragraph 10). Even for customer orders placed via an Internet-wired kiosk at a retail store, *Distributor Roles* still states that “the order would be transmitted immediately to the distributor” (page 2, paragraphs 8-9) who would then serve as a clearinghouse for the kiosk order and never physically handle nor manufacture the ordered product (page 2, paragraph 10).

The Office Action indicates that *Distributor Roles* discloses electronic business methods where customers may order customized home improvement products from a supplier who may ship the products to customers. Even assuming, *arguendo*, this to be true, either inherently or otherwise, such a disclosure would still not render applicant’s method obvious because *Distributor Roles* fails to teach or suggest the step of “accepting from at least one consumer of a customer order placed directly with a remote supplier”. Indeed, *Distributor Roles* teaches away from the placement of orders directly with a remote supplier in that the entire crux of *Distributor Roles* is based on the distributor acting as an intermediary between the customer and manufacturer with the distributor receiving the orders from the customer.

In view of the above, applicant respectfully submits that *Distributor Roles* in view of *Lowe’s Superstores* fails to disclose, teach or even remotely suggest a method that includes the step of “accepting from at least one consumer of a customer order placed

directly with a remote supplier". For this reason alone, the section 103 rejection should be withdrawn.

Further, *Distributor Roles* in view of *Lowe's Superstores* lacks any disclosure, teaching, or remote suggestion of the placement of a customer order "specifying customer order information including indication of a liquid coating base, a color, a quantity, delivery address and identification of the customer". Indeed, *Distributor Roles* does not specifically disclose liquid coating products yet alone acceptance of a customer order that specifies customer order information including indication of a custom color and particular volume of a liquid coating.

*Distributor Roles* also fails to recognize the unobvious advantages, described above, which can be realized by the method recited in claim 1. For example, *Distributor Roles* does not recognize the benefits of having the manufacturer add the colorant instead of the local retailer which include eliminating the need for the customer to visit a local retailer and eliminating the variables associated with the retailers adding the required colorants.

In this regard, applicant does not concede that one having ordinary skill in the art would have known at the time the application was made that the precision of a production subsystem of a remote supplier/manufacturer exceeds that obtainable by a local retailer, as suggested in the Office Action. Rather, applicant recognized as part of the invention that it would be advantageous to have manufacturers add the required colorant for producing custom color liquid coatings instead of the local retailers because the colorant dispensing apparatus utilized by manufacturers to produce standard color liquid coatings are generally more accurate and more precise than the colorant dispensing apparatus used by local retailers to produce custom color liquid coatings.

In addition, applicant respectfully submits that neither *Distributor Roles* nor *Lowe's Superstores* discloses, teaches or suggests a production system capable of adding colorants to liquid bases to produce containerized liquid coatings in a plurality of particular, custom, colors. Applicant has not found any teaching or even remote suggestion in either of the cited references of a production system for producing liquid coatings yet alone one capable of adding colorants to liquid bases to produce liquid coatings in a plurality of custom colors.

*Distributor Roles* and *Lowe's Superstores* also fail to disclose, teach or suggest the additional features recited in dependent claims 2-4 and 6-29. For example, neither reference, alone or in combination, discloses, teaches or suggests at least:

liquid coating product containerized in rigid metal paint cans (as recited in claim 2); or

fulfillment of a customer order by partial filling of a rigid metal paint can (as recited in claim 3); or

liquid coating product containerized in molded plastic expandable containers (as recited in claim 4); or

molded plastic expandable containers which possess a collar about an aperture which collar is gripped during operation of the production line (as recited in claim 6); or

identifying customer order information upon containers holding containerized liquid coating product (as recited in claim 7); or

identifying customer order information upon said containers by attaching a label to each said container bearing a digital code readable by a scanner (as recited in claim 8); or

identifying customer order information upon said containers by attaching a label to each said container bearing printed customer order information (as recited in claim 9); or

customer order information comprised of at least one of the group comprised of: color name of liquid coating product, customer name, delivery date, quantity of product in order, number of containers for each liquid coating product in the order (as recited in claim 10); or

operation of said production line which includes the addition of blended liquid coating base to an empty container (as recited in claim 11); or

blended liquid coating base obtained from a manufacturer in large containers ranging in volume from fifty-five gallon barrels through railroad tank cars inclusive of 1,000 liter totes (as recited in claim 12); or

a pipeline utilized for the transfer of liquid coating base from said large containers to a tank from which said liquid coating base is dispensed (as recited in claim 13); or

identifying the type of liquid coating base added upon the container (as recited in claim 14); or

operation of said production line which includes the addition of colorant to the blended liquid coating base (as recited in claim 15); or

identifying the name of the color resulting from the colorant added upon the container (as recited in claim 16); or

use of telecommunications to accept from a customer an order placed directly with a supplier of liquid coating product (as recited in claim 17); or

use of a telephone connected to a public telephone exchange to accept from a consumer an order placed directly with a supplier of liquid coating product (as recited in claim 18); or

supplier personnel entering customer order into a customer order subsystem (as recited in claim 19); or

use of facsimile transmission through a telephone exchange to accept from a customer an order placed directly with a supplier of liquid coating product (as recited in claim 20); or

maintaining the customer order subsystem and the production subsystem on the same computer (as recited in claim 21); or

maintaining the customer order subsystem and the production subsystem on different computers (as recited in claim 22); or

use of the internet to accept from a customer an order placed directly with a remote supplier of liquid coating product (as recited in claim 23); or

an internet device utilized to place an order directly with a remote supplier of liquid coating product (as recited in claim 24); or

use of a dedicated terminal with internet access only to a web site maintained by the supplier to place an order by a consumer directly with a supplier of liquid coating product (as recited in claim 25); or

the step of entering said customer order into a customer order subsystem being accomplished by the computer maintaining the customer order subsystem (as recited in claim 26); or

maintaining the customer order subsystem and the production subsystem on the same computer (as recited in claim 27); or

maintaining the customer order subsystem and the production subsystem on different computers (as recited in claim 28); or

a web site that provides product information assisting in the selection of liquid coating product inclusive of the identification of a plurality of particular, custom colors (as recited in claim 29).

For at least the above reasons, applicant respectfully submit that *Distributor Roles* in view of *Lowe's Superstores* do not render obvious claims 1-4 and 6-29. Accordingly, the Patent Office is respectfully requested to reconsider and withdraw the section 103 rejection of claims 1-4 and 6-29 should be withdrawn.

#### **REJECTION OF CLAIMS 29-34 UNDER 35 U.S.C. § 103**

Claims 29-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over a publication entitled *Web Ordering May Alter Role of Distributors*, National Home Center News by Carol Tice (hereinafter *Distributor Roles*) in view of an article entitled *Lowe's Launches New Superstores in N.E. Dallas, TX* (hereinafter *Lowe's Superstores*) and further in view of an article entitled *Welcome Homes on the Virginia Beach Tour – Visit a premier colonial revival-style home, painstakingly built and restored*, by Ann Wright (hereinafter *Colonial Restoration*). This rejection is respectfully traversed.

Claims 29-34 depend from independent claim 1 and are therefore allowable over *Distributor Roles* and *Lowe's Superstores* for at least the same reasons as those present above with respect to claim 1.

Further, while *Colonial Homes* appears to disclose the use of custom colors from formulae no longer on paint charts, the cited references lack the requisite motivation for combining *Colonial Homes* with either of the other two references. Indeed, *Colonial Homes* mentions nothing about electronic commerce yet alone distributor roles in the context of electronic commercial transactions, which is the entire crux of *Distributor Roles*.

Even if the cited references are properly combinable, the invention set forth in claims 29-34 is not rendered obvious by *Distributor Roles* in view of *Lowe's Superstores* and



further in view of *Colonial Homes* because none of these references, alone or in combination, teach or suggest the additional features recited in claims 29-34.

For example, the cited references do not teach or suggest a web site that provides product information assisting in the selection of liquid coating product inclusive of the identification of a plurality of particular, custom colors (as recited in claim 29) and liquid base characteristics (as recited in claim 30).

The cited references also do not teach or suggest a web site that provides assistance in the selection of liquid coating product appropriate to a given job as defined by information input by the consumer (as recited in claim 31). As noted in the specification, the consumer input can include selection of a color from a visual display of a plurality of particular custom colors, input of the type of intended usage for the liquid coating (e.g., interior or exterior, bathroom or kitchen versus other interior surfaces, etc.) and/or input of the linear dimensions for the area to be covered by the liquid coating.

There is also no teaching or suggestion in the cited references of a website providing customer assistance such as recommendation of a liquid coating base (as recited in claim 32); or calculation of an appropriate volume for a given application as defined by consumer input (as recited in claim 33); or suggestion of at least one particular, custom, color based upon digital input by said consumer, such as digital video input, digital photograph input and digital solid modeling input (as recited in claim 34).

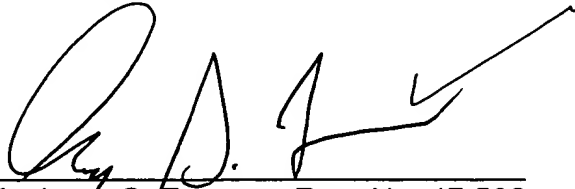
### **CONCLUSION**

In view of the above amendments and remarks, it is believed that all stated grounds of rejection having been properly traversed, accommodated, and/or rendered moot. Applicant therefore respectfully requests reconsideration of this application and allowance of each of claims 1-4 and 6-39 is earnestly solicited. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the application before allowance thereof, the Examiner is invited to contact Anthony G. Fussner (Reg. No. 47,582) directly at (314) 726-7502.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. G. Fussner', with a long horizontal stroke extending to the right.

Dated: October 21, 2003

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